



April 11, 2006

Mr. John F. Carter
Regional Director
Federal Deposit Insurance Corporation
25 Jessie Street at Ecker Square, Suite 2300
San Francisco, California 94105

Dear Mr. Carter:

Last fall, I joined twenty-five of my colleagues, as the presidents and chief executive officers of our respective state bankers associations, in writing you and former Chairman Don Powell expressing our concerns with the application of Wal-Mart Stores, Inc. ("Wal-Mart") to establish an industrial bank and obtain federal deposit insurance. Today I would like to reiterate those concerns and echo the recent comments of former Federal Reserve Chairman Alan Greenspan and former Congressman Tom Bliley indicating that Congressional review of the industrial loan corporation ("ILC") loophole is warranted. To that end, and on behalf of the membership of the Texas Bankers Association, I respectfully request not only that the FDIC deny Wal-Mart's federal deposit insurance application, but also that the FDIC impose a moratorium on the approval of any additional ILC applications for deposit insurance until the matter is properly studied, debated, and acted upon by Congress.

At the request of Congressman Jim Leach (R-IA), Former Chairman Alan Greenspan presented the Federal Reserve Board's views on ILCs the week before his retirement. In response to the question of whether the ILC loophole undermines the policy that Congress has established for maintaining the separation of banking and commerce, Greenspan's answer was a clear and unequivocal "yes."

Specifically, the Chairman noted that the exponential growth of ILCs since they were first exempted from the application of the Bank Holding Company Act in 1987 has materially changed the character, powers and ownership of the entities. These changes, he went on to write, "threaten to remove Congress' ability to determine the direction of our nation's financial system with regard to the mixing of banking and commerce and the appropriate framework of prudential supervision." Indeed, Congress exhibited its determination to continue the separation of banking and commerce in 1999 with the passage of the Gramm-Leach-Bliley Act.

Despite assertions by some to the contrary, Congress not only maintained the line of separation between banking and commerce in Gramm-Leach-Bliley ("GLB"), it strengthened it. Few people are as qualified to discuss the intentions of the authors of GLB as former Congressman Tom Bliley (R-VA). In a recent editorial to the *American Banker*, Mr. Bliley reiterated Congress' fortification of this separation, and warned that if Congress doesn't "do something soon to protect against the problems that industrial loan companies, especially a Wal-Mart industrial loan company, pose to our communities,



businesses, and the banking system, we will regret it." These are ominous words from an architect of what is arguably one of the most important pieces of banking-related legislation of the late 20th century.

Congress first required the corporate owners of full-service banks to be supervised on a consolidated basis in 1956. Under the consolidated supervision structure, the Federal Reserve Board has the authority to examine and obtain reports from bank holding companies and each of their subsidiaries, establish consolidated capital requirements for bank holding companies, and take supervisory actions with respect to bank holding companies and their nonblank subsidiaries for unsafe or unsound practices or violations of law.

The FDIC, as the banking supervisor of a Wal-Mart ILC, would not possess these same powers. Rather, it would have only limited authority to take enforcement actions against the corporate owner of Wal-Mart Bank, and this authority could only be used if the owner engaged in an unsafe or unsound practice in conducting the business of the bank. So, even if Wal-Mart the corporation engaged in unsafe and unsound business practices that threatened the status of Wal-Mart the bank, this would be beyond the scope of the FDIC's supervisory authority. This less-extensive regulation puts Wal-Mart at a competitive advantage over its banking competitors subject to the Federal Reserve's stringent regulation.

Congress should be the body that determines policies that govern the banking system. As Chairman Greenspan recently wrote, policies as important as whether a commercial firm should be allowed to own and operate a bank should not be made through the "expansion and exploitation of a loophole that is available to only one type of institution chartered in a handful of states." In filing its applications for a Utah ILC and federal deposit insurance therefore, Wal-Mart has joined a growing and steady stream of commercial companies who are exploiting this loophole. Congress has repeatedly determined banking and commerce should remain separate. I urge the Corporation to respect Congress's exclusive authority to establish the nation's banking framework and reject Wal-Mart's application for federal deposit insurance.

Sincerely yours,

Fredrick M. "Rick" Smith
President & CEO
Texas Bankers Association